

Regional Anti-Corruption Action: Supporting the Judiciary in Combating Corruption in the Western Balkans

BACKGROUND

After successfully accomplishing its anticorruption activities in Serbia in 2012 and 2013, supported by the Partnership for Transparency Fund (PTF), the Lawyers Committee for Human Rights (YUCOM) has continued with its monitoring activities, with updating data on the “Anti-Corruption” proactive website¹ and working with representatives of the judiciary² as well as with NGOs and regulatory bodies to combat corruption in Serbia and the region. (See Annex 1 on YUCOM activities). Anticorruption activities included trial monitoring, organizing informational meetings for stakeholders and conducting research as well as publicizing results on line. Drawing on this experience, and especially that gained in study visits to Slovenia and Croatia, YUCOM recognized the need to go regional and broaden the action to the states that share the same historical heritage, political and legal system and similar or even the same level of protection of human rights, of democracy and the rule of law, as well as similar ranking on the index of corruption, according to Transparency International (TI).³

Sharing experiences with CSO partners in the region and exchanging of practice, knowledge and experiences between judicial practitioners, police and specialized anti-corruption bodies and organs in three countries should be the basis for further action to improve the rule of law and the judicial response to criminal acts of corruption.

YUCOM has communicated with its partner organizations from *Croatia and Bosnia and Herzegovina* and they have expressed willingness to participate in joint project that will have an anticorruption focus. Also, having in mind that Croatia recently became a member state of the European Union while Montenegro, Bosnia and Herzegovina and Serbia are in the accession process, sharing experiences in terms of reforms in the formal-legal framework as well as the implementation of the ‘transitional laws’ is a key aspect and a novelty their experience will reinforce the network in : (a) analyzing and isolating the most successful mechanisms for combating corruption, (b) ensuring that the CSOs are capable of conducting on-ground monitoring of this process, (c) further linking anti-corruption

¹ <http://antikorupcija.yucom.org.rs/>

² Especially with prosecutors through collaborative project with the Prosecutors Assosiation in Serbia on monitoring the work of prosecutors' offices in the criminal cases of human rights violations

³ Serbia ranked 80th, Montenegro 75th Bosnia and Herzegovina 72nd and Croatia 62nd on the TI's annual Corruption Perception Index for 2012

policies and actions with other relevant and related institutional reforms implemented as a part of reconciling national legal systems and practices with the European (EU) legal/judicial legacy.

Conclusively, the cooperation among these CSOs in the region and their further facilitation of cooperation in anti-corruption matters in these countries will contribute to strengthening bilateral/regional cooperation among the institutions which consequently leads to wider-reaching efforts for the suppression of corruption, namely international organized crime.

*Regional partners that will be the core of the future network are: **YUCOM Serbia, Youth Initiative for Human Rights – Bosnia and Herzegovina and Youth Initiative for Human Rights – Croatia.**⁴*

GOALS AND OBJECTIVES

During its previous anticorruption work YUCOM recognized the need to continue with monitoring of corruption criminal proceedings, especially with attending court trials and reporting on the progress and the respect of procedural rules and human rights standards during these mainly long-lasting processes. In addition YUCOM recognized the need to go regional and broaden the action to the states that share the same historical heritage, political and legal systems and similar or even the same level of protection of human rights and success in combating corruption.

Moving the rule of law agenda forward and supporting judicial reform in the region so as to create societies with less corruption and greater judicial integrity is the main goal of partners' anticorruption action. Strengthening judiciaries in order to combat corruption is the goal that is directly linked with proposed activities of networking, trial monitoring, awareness raising and informing the citizens on the states' and especially judiciaries' response to increasing corruption on Balkans.

Regional network for corruption trials monitoring created and number of monitors trained and CSOs' capacities built for monitoring the work of judiciary in this specific area and in

⁴ Detailed information can be found in Annexes 2-4

general is *one of the key objectives of the proposed joint regional action.*

Exchanging experiences on challenges and obstacles in judicial response to corruption as well as exchanging and analyzing data, knowledge and practices of public officials on combating corruption altogether should be the tool to lobby on changing situation concerning the non-efficient judiciaries in three countries in the coming period of time. These analyses will result in a policy paper intended to better inform stakeholders in each country of the issues and ways forward.

The next objective is *to better inform and educate the public on key issues concerning ways to suppress corruption and increase the number of scholars and professionals involved in public debate* on obstacles in making the legal system, and especially the judiciary, more efficient when suppressing corruption.

ACTIVITIES

Networking and building capacities

Two-day initial meeting with partners will be organized in the first project phase. **An** initial working plan will be formulated and internal obligations defined in this meeting. Partners will exchange relevant experiences and information on the work of judiciary and existing monitoring mechanisms in context of combating corruption. YUCOM will present its previous work on suppressing corruption to the partners, monitoring methodology, and experiences from the monitoring process and conclusions from the meetings with state representatives and regulatory bodies. *Partnership agreements on joint anticorruption activities will be signed and the network will be formally created.*

Further networking will be provided in workshops where volunteers, activist and journalists will be familiarized with the monitoring methodology and criminal law and practice concerning corruption. Trained monitors and CSOs will be called to join the network that will in the forthcoming period try to push the rule of law addenda forward and support the judiciary reforms in the region by monitoring the work of judiciaries in cases of corruption and by changing the experiences and informing the public on this issues

on regular basis.

Our partners Youth Initiative for Human Rights (YIHR) are already a regional nongovernmental organization – operating and implementing programmes in Serbia, Kosovo, Monte Negro, Bosnia and Herzegovina and Croatia, functioning as a network already for 10 years.⁵ The YIHR network engage trained legal practitioners and monitors with experience in monitoring case trials, reporting and analyzing the work of judiciary. Young people from these countries formed YIHR in order to enhance youth participation in the democratization of the society and empowerment of the rule of law through the process of facing the past and establishing new, progressive connections in the post-conflict region of former Yugoslavia. YIHR's model of work and communication will be used in functioning of anticorruption/rule of law network. YIHR started as a regional organization, but between 2009 and 2011 went through a process of organizational transformation where offices in each of the countries were registered as local organizations that later signed a Memorandum on Cooperation. This has allowed the member organizations to respond to challenges and priorities in each of the societies it works in, while maintaining a strong regional character. This regional character has a threefold beneficial effect: (a) it provides support to each of the members in terms of capacity and institutional knowledge; (b) it allows the Network to successfully and with little logistical challenges implement regional actions and projects as well as (c) broadens the area of impact of YIHR's activities, both directly and in terms of providing a sustainable and constant platform for exchange of experience that increases the quality of work of each of the members.

With pioneering in monitoring of corruption trials YUCOM will lead the joint monitoring mission in region and partners will contribute with their experience and knowledge.

Three workshops will be held in the suggested project period of six months in three countries and project partners will tend to hold them by the end of the fourth month of the project implementation. Volunteers, human rights activists, journalists and researchers will be trained for monitoring and familiarized with human rights standards and basic principles of criminal proceedings as well as specific issues concerning usually complexed corruption cases. These events would include presentations, discussions, exchange of experiences and case studies including judges, prosecutors and anticorruption regulatory bodies representatives as lecturers/participants. Workshops will be followed by discussion on topics in the areas of criminal proceedings, anticorruption methods and investigative

⁵ YIHR was formed in 2003, and more than 40 people work on various projects on a daily basis. The work of the organization also includes several hundred activists. The mission of YIHR is to protect the victims of human rights violations, establish new connections in the region among the post-war generations, as well as to include youth in the process of transitional justice, through the promotion of truth about the wars in former Yugoslavia. The Youth Initiative for Human Rights promotes truth, justice, responsibility and equality as its basic values.

techniques, trial observation and work of judiciary will also be the perfect place to exchange knowledge and experiences.

Monitoring

Monitoring activities on corruption criminal cases will be continued in Serbia and will get started in other three countries for corruption criminal proceedings. In previous period YUCOM created the monitoring methodology guidelines and together with partners CHRIS network conducted monitoring through numerous attendances to court hearings. Attending the hearings and involving the civil society and public in trial monitoring YUCOM promoted as a model of legitimate "pressure" on all of the parties of criminal procedure in order to make them act more responsible and professional.

Up to 35 cases of high or lower level corruption in three countries will be identified and their progression will be monitored in line with created methodology. Unique methodology will be used and daily reports will be posted on new anti – corruption regional website. New cases in three countries will be identified using Freedom Of Information (FOI) requests.

Methodology of sending FOI requests will be used as to get information as to identify cases and to get data needed for analysis. FOI requests will be submitted to different countries – partner from Serbia will ask for data from Croatia, Croatia from Bosnia, Bosnia from Serbia. In that manner we will test FOI requests methodology with regional elements and how the right of public to know is being guaranteed.

In Serbia new Criminal Procedure Code fully came into force in October 2013, now obliging all courts and public prosecution offices to release information on processes. New system of prosecutor's investigation will be monitored for both higher and lower level corruption cases.

Awareness raising and informing

Comprehensive anti-corruption website will be created as to follow activities in new, regional context. YUCOM's "Anti-Corruption" website serves as good information base for following the response of judiciary to criminal acts of corruption in Serbia, *and it will be broaden with data from Bosnia and Croatia* as well. It should be regional databases with calendar of appointed hearings, daily reports from courts and reports and announcements of the partners including interesting relevant information and media reports will be posted on this site in original forms. Portal will be open sourced for comments and follow ups from

citizens and interested scholars and legal practitioners.

The Portal will be updated with regional announcements of trials as well as with shared data, experiences from monitoring process, with experts' articles on subject and with regional media coverage of selected trials and related topics. Methodology of sending FOI requests will be used as to get information concerning selected cases. FOI requests will be submitted to different countries – partner from Serbia will ask for data from Croatia, Croatia from Bosnia, Bosnia from Serbia. In that manner we will test FOI requests methodology with regional elements and how the right of public to know is being guaranteed.

The web site should be important tool in awareness raising component of the mission. Both general public and legal professionals would be called for involving in salvation of the burning issues concerning the corruption offenses and criminal proceedings, and media will be called to report with more objectivity and less sensationalism, as well as with respect to the presumption of innocence. Expanded promotion of trial monitoring and citizen engagement including encouraging CSOs, legal practitioners, scholars and the general public to monitor the legal system as well as to join the public debate on the weaknesses in judicial responses to criminal corruption offenses is what YUCOM spotted as one of the main achievements from first anti – corruption collaboration with the Partnership for Transparency Fund. Promotion of objective reporting with the respect for presumption of innocence will be also one of the goals of action.

Promotional video: Partners would produce a short promotional video explaining the aim of the project and making it closer to the wider public. This video will be produced in the early stage and will be posted on partners' websites, on the portal and on social media run by partners.

Policy paper

Communication between partners will be constant in order to exchange experiences on judiciary's effectiveness when it comes to solving criminal corruption cases and generally on functioning of the structures and systems for combating corruption in three countries. After meetings and workshops and after the first phase of monitoring partners will take notes and put together the conclusions which will serve for creation of the *policy paper* for three countries.

Conducting comparative regional overview on the effectiveness of the work of judiciary (and other relevant actors) in combating corruption will include analysis and experiences from monitoring of the corruption case trials and the effectiveness of the judiciary in combating corruption in three Western Balkans countries and will be put in one policy paper. Partner organizations will prepare statistics on corruption criminal cases as well

as findings and experiences from monitoring process and reports from meetings and workshops. ⁶

MEASUREMENT

Partners will train *up to 45 trainees* including volunteers, activists, journalists and CSOs representatives on using monitoring methodology and reporting on corruption criminal trials. Network will rise from three experienced human rights organization to reach the significant number of interested individuals and organizations to jointly push forward the judicial reforms in the region and to reach higher guarantees of rule of law principle. Over *35 cases* in three countries will be monitored with over *60 trial attendances* in *six months* period. All of the cases with appointed trial days will be announced and daily reports from all trials will be posted on regional anticorruption website.

Policy paper on regional data analysis and exchanged experiences will be used as a tool to influence officials as to act with much more efficiency and with the respect to human rights of parties to the proceedings, namely the right to fair trial within a reasonable time.

Web site filled with announcements of appointed trials, reports and exchanged data and articles as well as media coverage of selected topics will be open to comments from visitors and its reach will be followed monthly as to measure regional interest for the network's anticorruption/rule of law mission.

Thus, the civil society, citizens and representatives of authorities of the respective countries will benefit from an extensive exchange of experiences in these three countries, as well as joint activities and actions.

SUSTAINABILITY

Developing capacities of future network and its members (as well as among project partners) for monitoring, reporting, informing, legal analysis and communicating with public officials will assure the sustainability of the initial regional action and will be strong basis for future action. YUCOM's pioneer activities in monitoring criminal proceedings for corruption and good communication gained as well as good professional relations with highest officials from judiciary and other key subjects in anti-corruption system in Serbia

⁶ Comparative overview on the systems of evaluating the work of judges and public prosecutors could be made for three countries as well as on the work of the bodies in charge for election of judges and prosecutors. According to our previous research the establishment of more sustainable and effective system of evaluation is more than needed as a corrective for the main actors of criminal proceedings to act professionally, impartially and independently. Comparative overview on court data bases and systems of informing public on the trials/cases could also be made in accordance with the respect for citizens' right to be informed. This could be overviewed concerning FOI request usage during the initial regional action activities.

encourage us to go regional and continue action with experienced and pro active HR CSO partners YIHR from Croatia and Bosnia, already working together regionally for ten years on similar activities.

Channels of communication are important between partners and it is one of the capacity development issues. Partners will on regular basis exchange data, information and make internal reports of work for purposes of internal evaluation. YUCOM will collect narrative progress reports from partners on two-month basis on conducted project activities in Croatia and Bosnia and will report to PTF on progression of the all regional activities. Final project report will include country specific reports. After initial meeting skype meetings will be managed on regular basis with partners and mailing list will be active with all of the network members. Data will be exchanged on regional level concerning public announcements of selected trials and communication with state organs from the region will be mediated by the partners from host countries.

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Next Steps:

After the initial start up phase, the focus of the networks will expand to other areas of concern relating to the rule of law. Croatian experience in investigating war profiteering could be a good way to expand the interest of the project.. Croatian partners also pointed out this aspect of corruption. This could be a specific focus for the future network as these cases are not present equally in all three countries. This could be a good motor for prosecutors and courts in all three countries to elaborate on these cases. Sharing experiences among these countries in securing prosecution of persons responsible for war profiteering is crucial as this specific aspect of corruption is an experience these countries shared through their democratic transition.